

Senate Bill No. 2

CHAPTER 325

An act to amend Sections 6046, 6047.1, 6047.2, 6047.4, 6047.12, 6047.19, 6047.20, 6047.21, 6047.27, and 6047.29 of, and to add Section 6047.30 to, the Food and Agricultural Code, relating to pest control, and making an appropriation therefor.

[Approved by Governor October 11, 2009. Filed with
Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

SB 2, Wiggins. Pest control: Pierce's disease: glassy-winged sharpshooter.

(1) Existing law establishes the Pierce's Disease Control Program in the Department of Food and Agriculture, and the Pierce's Disease Management Account in the Food and Agriculture Fund. Existing law allows money in this account to be expended as specified to combat Pierce's disease and its vectors. Existing law declares that these provisions shall become inoperative on March 1, 2011.

This bill would allow specified money in the account to also be expended for purposes relating to other designated pests and diseases, as provided. The bill would change the date on which the above provisions become inoperative to March 1, 2016.

(2) Existing law creates in the Department of Food and Agriculture the Pierce's Disease and Glassy-winged Sharpshooter Board, which consists of specified numbers of representatives of producers and processors, as defined, in the grape industry who are appointed by the Secretary of Food and Agriculture. Existing law sets forth the powers of the board and provides for an annual assessment to be paid by the processors into the Department of Food and Agriculture Fund for the purposes of, among other things, research and other activities related to the transmittal of the plant killing Pierce's disease bacterium, and its vectors, particularly the glassy-winged sharpshooter. Existing law repeals these provisions on March 1, 2011.

This bill would authorize the expenditure of the assessments for purposes relating to other designated pests and diseases, as provided, and would extend the repeal date of these provisions to March 1, 2016, except that this bill would make these provisions inoperative as of March 1, 2011, unless the secretary finds, in a referendum conducted by him or her, or a person designated by him or her, that a favorable vote has been given. The bill would require, no later than April 15, 2010, the secretary to establish a list of those individuals eligible to vote on the continued implementation of these provisions, as specified. The bill would also make a conforming change and other technical changes.

(3) Existing law authorizes the Department of Food and Agriculture and the Pierce's Disease and Glassy-winged Sharpshooter Board to charge expenditures for administrative purposes, as specified, in an amount not to exceed a total of 7% of the assessments collected pursuant to these provisions.

This bill would increase the amount that may be charged for administrative purposes to an amount not to exceed a total of 14% of the assessments collected.

Because assessments collected pursuant to these provisions are deposited in the Department of Food and Agriculture Fund, which is continuously appropriated, by extending the collection of these assessments and authorizing expenditure for a new purpose, this bill would make an appropriation.

(4) Existing law, operative until March 1, 2011, provides that the Secretary of Food and Agriculture shall appoint an advisory task force to advise him or her on the control and management of Pierce's disease.

This bill would extend these provisions to March 1, 2016.

This bill would authorize the Pierce's Disease and Glassy-winged Sharpshooter Board, after consulting with the advisory task force and upon making specified findings, to recommend to the secretary, and would authorize the secretary to determine, that a pest or disease affecting grapes grown in California and crushed for wine, wine vinegar, juice, concentrate, or beverage brandy be designated as an other designated pest or disease, and that money should be expended on research and outreach programs for specified purposes relating to the other designated pest or disease, except as provided. The bill would also make conforming changes.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 6046 of the Food and Agricultural Code is amended to read:

6046. (a) There is hereby created in the department the Pierce's Disease Control Program.

(b) The Governor shall appoint a statewide coordinator, and the secretary shall provide an appropriate level of support staffing and logistical support for combating Pierce's disease and its vectors.

(c) (1) There is hereby created the Pierce's Disease Management Account in the Food and Agriculture Fund.

(2) The account shall consist of money transferred from the General Fund and money made available from federal, industry, and other sources. Money made available from federal, industry, and other sources shall be available for expenditure without regard to fiscal year for the purpose of combating Pierce's disease or its vectors and for the purpose described in Section 6047.30. State general funds to be utilized for research shall be expended

only when the secretary has received commitments from nonstate sources for at least a 25-percent match for each state dollar to be expended.

(d) The funds appropriated pursuant to this section to the Food and Agriculture Fund for the purpose of combating Pierce's disease and its vectors shall be used for costs that are incurred by the state or by local entities during and subsequent to the fiscal year of the act that added this section for the purpose of research and other efforts to combat Pierce's disease and its vectors.

(e) Whenever, in any county, funds are allocated by the department for local assistance regarding Pierce's disease and its vectors, those funds shall be made available to a local public entity, or local public entities, designated by that county's board of supervisors.

(f) Funds appropriated for local assistance shall not be allocated to the local public entity until the local public entity creates a Pierce's disease work plan that is approved by the department. Any funds allocated by the department to a designated local public entity shall be utilized for activities consistent with the local Pierce's disease work plan or other programs or work plans approved by the department. It shall be the responsibility of the designated local public entity to develop and implement the local Pierce's disease work plan. Upon request, the department shall provide consultation to the local public entity regarding its work plan.

(g) The work plan created by the designated local public entity shall include, but is not limited to, all of the following:

(1) In coordination with the department, the development and delivery of producer outreach information and training to local communities, groups, and individuals to organize their involvement with the work plan and to raise awareness regarding Pierce's disease and its vectors.

(2) In coordination with the department, the development and delivery of ongoing training of the designated local public entity's employees in the biology, survey, and treatment of Pierce's disease and its vectors.

(3) The identification within the designated local public entity of a local Pierce's disease coordinator.

(4) The proposed treatment of Pierce's disease and its vectors. Treatment programs shall comply with all applicable laws and regulations and shall be conducted in an environmentally responsible manner.

(5) In coordination with the department, the development and implementation of a data collection system to track and report new infestations of Pierce's disease and its vectors in a manner respectful of property and other rights of those affected.

(6) On an annual basis, while funds appropriated by this section are available for encumbrance, the department shall review the progress of each local public entity's activities regarding Pierce's disease and its vectors and, as needed, make recommendations regarding those activities to the local public entity.

(h) Notwithstanding Section 7550.5 of the Government Code, the department shall report to the Legislature on January 1, 2001, and each January 1 while this section is operative, regarding its expenditures, progress,

and ongoing priorities in combating Pierce's disease and its vectors in California.

(i) This article shall become inoperative on March 1, 2016, and as of January 1, 2017, is repealed, unless a later enacted statute that is enacted before January 1, 2017, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 6047.1 of the Food and Agricultural Code is amended to read:

6047.1. The Legislature finds and declares the following:

(a) The state's agricultural business economy could be seriously damaged if measures are not taken to prevent the transmittal of the plant killing bacterium that causes Pierce's disease and to contain its vectors, particularly the glassy-winged sharpshooter, and if measures are not taken to prevent or inhibit infestations by other designated pests and diseases. Furthermore, progress made by winegrape growers and others in the adoption of integrated pest management and sustainable farming practices is threatened by these destructive pests and diseases.

(b) The funding to accomplish the purposes of this article shall be derived from an assessment on all grapes grown in California and crushed for wine, wine vinegar, juice, concentrate, or beverage brandy.

(c) This article is not intended to establish a precedent, or to supersede, or to reduce or in any way alter government funding of the effort to combat Pierce's disease and other pests in this state.

(d) The purposes of this article are enhanced by the many and varied efforts of other agricultural commodities' industries to combat this bacterium and its vectors and other designated pests and diseases.

(e) This article is enacted for the protection of the winegrape industry and is also declared to be enacted in the public interest and in the exercise of the police power of the state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

(f) The assessments shall be collected and expended for purposes consistent with Sections 6046 and 6047.30.

SEC. 3. Section 6047.2 of the Food and Agricultural Code is amended to read:

6047.2. For the purposes of this article, the following definitions shall govern its construction:

(a) "Board" means the Pierce's Disease and Glassy-winged Sharpshooter Board.

(b) "Department" means the Department of Food and Agriculture.

(c) "Marketing season" begins July 1 of each year and ends June 30 of the next year.

(d) "Producer" means a grower, including a cooperative, of grapes in California for wine, wine vinegar, juice, concentrate, or beverage brandy.

(e) "Processor" means a processor who crushes grapes in California for wine, wine vinegar, juice, concentrate, or beverage brandy.

(f) "Person" means a producer, processor, or any other entity that holds title to grapes subject to assessment.

(g) “Purchase” means the taking by sale, discount, negotiation, mortgage, pledge, lien, issue or reissue, gift, or any other voluntary transaction creating an interest in property. For purposes of this subdivision, “sale” shall consist of the passing of title from the seller to the buyer for a price.

(h) “Purchased grapes” means grapes grown in California, crushed by a processor for wine, wine vinegar, juice, concentrate, or beverage brandy, and purchased from a person considered a separate entity from the purchaser.

(i) “Grapes not purchased” means all other grapes grown in California and crushed by a processor for wine, wine vinegar, juice, concentrate, or beverage brandy, including, but not limited to, the following:

(1) Grapes grown by a person who is not considered a separate entity from the processor or who is a member of the processor cooperative.

(2) Grapes not purchased and crushed to the account of a person who retains ownership of the grapes.

(j) “Secretary” means the Secretary of Food and Agriculture.

(k) “Other designated pests and diseases” means pests and diseases designated by the secretary as provided in Section 6047.30.

SEC. 4. Section 6047.4 of the Food and Agricultural Code is amended to read:

6047.4. (a) The powers of the board shall be the following:

(1) Submit recommendations to the secretary on, but not limited to, the following:

(A) Selection of officers.

(B) Terms of office for board members.

(C) Annual assessment rate.

(D) Annual budget.

(E) Expenditures authorized under Sections 6047.5 and 6047.30.

(2) Receive money from the assessment and other sources.

(3) Adopt, amend, and rescind all proper and necessary bylaws and procedures.

(4) Coordinate its activities with the secretary’s science advisory board and agricultural/governmental advisory task force.

(b) A majority of the members of the board shall constitute a quorum of the board. The vote of a majority of the members present at a meeting at which there is a quorum constitutes an act of the board, except for actions taken pursuant to subdivision (a) of Section 6047.7, which shall require a majority of the vote of the board. The board may continue to transact business at a meeting where a quorum is initially present, notwithstanding the withdrawal of members, provided any action is approved by the requisite majority of the required quorum.

(c) As authorized by the board, members of the board may receive per diem and mileage in accordance with the rules of the Department of Personnel Administration for attendance at meetings and other approved board activities.

SEC. 5. Section 6047.12 of the Food and Agricultural Code is amended to read:

6047.12. (a) Expenditures charged by the department and the board for administrative purposes shall not exceed a total of 14 percent of the assessments collected pursuant to this article. Administrative purposes shall include, but not be limited to, all auditing expenses and all costs and attorneys fees resulting from, or relating to, litigation involving this article against the department, or the board and its members and agents, and expenses associated with Section 6047.4 and paragraphs (1) and (2) of subdivision (a) of Section 6047.5.

(b) Notwithstanding subdivision (a), the Joint Legislative Audit Committee and the State Auditor shall maintain independent authority to audit the expenditure of industry assessments.

SEC. 6. Section 6047.19 of the Food and Agricultural Code is amended to read:

6047.19. (a) On or before December 31st of every other year, the secretary, after consultation with the board, shall report on the status of this article to the chairs of the policy and fiscal committees that have the appropriate subject matter jurisdiction in the Assembly and the Senate.

(b) The report shall include a financial accounting, including the distribution of industry assessments and any unexpended amount on deposit, of the department's efforts to contain Pierce's disease and its vectors.

(c) This article shall remain in effect only until March 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before March 1, 2016, deletes or extends that date.

SEC. 7. Section 6047.20 of the Food and Agricultural Code is amended to read:

6047.20. This article shall become inoperative, as of March 1, 2011, unless the secretary finds, in a referendum conducted by him or her, or a person designated by him or her, subsequent to the operative date of the amendments to this section adopted in 2009, that a favorable vote has been given pursuant to this article.

SEC. 8. Section 6047.21 of the Food and Agricultural Code is amended to read:

6047.21. (a) No later than April 15, 2010, the secretary shall establish a list of those persons eligible to vote on the continued implementation of this article.

(b) Eligibility shall be limited to the producers, processors, and persons who paid the assessment on grapes crushed in the immediately preceding season.

(c) (1) In establishing the list, the secretary may require processors, producers, and others to submit the names, mailing addresses, and assessment values of all producers who paid the assessment on grapes crushed in the immediately preceding marketing season.

(2) The information required by the secretary shall be filed either with the annual assessment report or no later than 30 days following receipt of a written notice from the secretary requesting the information.

(d) Any producer whose name does not appear on the secretary's list may have his or her name added to the list by filing with the secretary a

signed statement identifying himself or herself as a producer that paid an assessment during the most recent marketing season.

SEC. 9. Section 6047.27 of the Food and Agricultural Code is amended to read:

6047.27. (a) If the secretary finds that a favorable vote as provided in this article has not been given subsequent to the operative date of the amendments to this section adopted in 2009, this article shall become inoperative as of March 1, 2011.

(b) If the secretary finds that a favorable vote has been given as provided in this article, he or she shall certify and give notice of the favorable vote to all persons whose names and addresses may be on file with the secretary as provided in Section 6047.21.

SEC. 10. Section 6047.29 of the Food and Agricultural Code is amended to read:

6047.29. (a) The secretary shall appoint an advisory task force consisting of scientific experts, including, but not limited to, university researchers and agricultural representatives, for the purpose of advising the secretary on the control and management of Pierce's disease.

(b) Members of the advisory task force, or alternate members when acting as members, may be reimbursed, upon request, for necessary expenses incurred by them in the performance of their duties.

(c) Notwithstanding Sections 6047.20 and 6047.27, this section shall remain in effect until March 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before March 1, 2016, deletes or extends that date.

SEC. 11. Section 6047.30 is added to the Food and Agricultural Code, to read:

6047.30. (a) The board may, after consulting with the advisory task force and upon making findings as described in this section, recommend to the secretary, and the secretary may determine, that a pest or disease affecting grapes grown in California and crushed for wine, wine vinegar, juice, concentrate, or beverage brandy be designated as an other designated pest or disease, and that money should be expended on research and outreach programs for purposes consistent with Sections 6046 and 6047.1 relating to the other designated pest or disease. However, no General Fund moneys shall be expended after March 1, 2011, on new research and outreach programs relating to other designated pests or diseases.

(b) The board's findings in support of a recommendation under this section shall include all of the following:

(1) The pest or disease would adversely affect the health of grape vines, the yield from grape vines, or the quality of grapes grown on the vines if the pest or disease becomes established in California or expands to new areas of the state.

(2) The pest or disease would significantly damage the state's agricultural business economy if allowed to become established in California or expand to new areas of the state.

(3) Significant portions of the grape producing areas of the state are now affected, or reasonably likely to be adversely affected in the future, by the spread of the pest or disease.

(4) Expenditures of money approved by the secretary based on the findings and recommendations described in this section will not, to a substantial degree, diminish any expenditures under Article 8 (commencing with Section 6045) or this article on Pierce's disease and its vectors, particularly the glassy-winged sharpshooter, research, work plans, and program activities.

(5) Scientific experts, including, but not limited to, university researchers, entomologists, plant pathologists, economists, and other agricultural representatives have provided information and advice in support of the findings described in paragraphs (1), (2), (3), and (4). For purposes of this paragraph, it is not required that all scientific experts consulted by the board agree or provide similar advice.